

DRAFT

OGC:RFB:afb
25 April 1955

MEMORANDUM FOR: Chief, Finance Division

SUBJECT: Movement of Household Effects, Travel and
Transportation Vouchers;
and Dependents

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- REFERENCES:
- (a) Memorandum to Chief, Fiscal Division
from Chief, Finance Division dated
4 April 1955, subject above
 - (b) Comments on Routing and Record Sheet,
to Chief, Finance Division from ExO, OP
dated 11 April 1955
 - (c) Memorandum to Office of General Counsel
from Chief, Finance Division, same subject,
dated 15 April 1955

1. This memorandum is in answer to your ^{Memorandum} request of 15 April 1955
(and its attachments) requesting the opinion of this office as to whether
it would be legally proper for CIA to pay the cost of movement of house-
hold effects and travel of subject and his dependents in the circumstances
cited.

2. Subject was employed by the Post Office Department in Boston,
Massachusetts as a substitute clerk (indefinite), ~~as a part-time~~
~~employee~~ on a part-time basis. At the time he made application to CIA,
he was instructed by the CIA recruiting officer not to tell anyone that
he was being considered for employment by CIA. ^{(and signed a printed agreement with the same}
^{recruiter).} He was informed of his
acceptance for duty with CIA by letter dated 20 December 1954 and sub-
mitted a resignation ^{to} ~~from~~ the Post Office Department, effective 15 January
1955. ~~He asked the CIA recruiting officer about collecting the cost of the~~

~~this possibility upon arrival in Washington, D. C.~~ When he entered
^{with CIA, in Washington, D. C. on 24 January 1955,} ^(same leave)
on duty a collection was made from him for his unused annual leave. Refer Legal
since he had received a lump sum payment upon his separation from the
Post Office Department. The effect of this was to give him continuous

service. No formal travel order has been issued.

3. a. The basic statutory provision authorizing reimbursements for travel and transportation expenses and expenses incident thereto, including those incurred in the movement of dependents, household goods and personal effects, in the case of a domestic transfer between government agencies, is Section 1 (2) of Public Law 600, 79th Congress, 2 August 1946 (60 Stat. 806), as amended by Public Law 830, 81st Congress, 23 September 1950 (64 Stat. 985), which in relevant part provides:

I quote from HB 22-100-1, pp. 39-40, from "Under such regulations as to" - based on cubic measurement)."]

- b. CIA Regulation 30-1, 3 December 1952, provides that the expenses described above "may be paid to or on behalf of employees in accordance with the provisions of" the laws above cited, inter alia.

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- c. 21 November 1952, Section 3-A(1)(2)(2) provides: I quote II

4. The issues are:

(a. Would subject, ^{have been} entitled to reimbursement of the expenses described above, under Public Law 600, as amended, ~~or if that~~ ^{if} an otherwise proper travel order ^{had been} issued prior to movement? ~~would have been valid?~~

b. Is this entitlement, if any, lost through the failure to issue a travel order prior to movement?

5. a. 32 Comp. Gen. 177 and B-69310 (unpublished decision of the Comptroller General), cited in the claim, indicate that ^{an employee} ~~subject~~, although holding an indefinite appointment with the Post Office Department, is considered a "regular employee" for the purposes of the Holiday Compensation Act of June 29, 1938, as amended.

b. 27 Comp. Gen. 757 defines "transfer" as used in ^{Public Law} ~~Pub. L.~~ 600 to include ^{bona fide} ~~bonified~~ changes of employment between departments so as to authorize payment in such cases, provided service in two agencies is continuous and all statutory requirements and regulations are complied with." The same decision defines the phrase "for permanent

duty" as relating to "change in permanent duty station of employee and not to tenure of appointment of employee so as to exclude from benefits of act employees of other than permanent appointments".

c. The total effect of the foregoing would be to qualify subject for reimbursement if a prior ^{travel} ~~transfer~~ order had been issued.

6. a. & 27 Comp. Gen. 128 and 27 Comp. Gen. 790 are unequivocal in requiring prior authorization for travel expenses at the time of a transfer such as this one. ~~The latter~~

By these decisions, however, have been superseded by Public Law 830, which changed the phrasing of Section 1 (a) of Public Law 600. Senate Report No. 2495, Aug. 30, 1950, 1950 U.S. Code Cong. Service 3869, at 3873, explains the intent of Congress in making this change:

"Subsection 1(a) of the act of August 2, 1946 (60 Stat. 806, 5 U.S.C. 73b-1(a) now authorizes payment of travel expenses of employees, transportation of their families and shipment of their household effects upon transfer from one official station to the other at the convenience of the Government only 'when authorized, in the order directing the travel.' Subsection 1(a) of the present bill would substitute for those words the words 'authorized or approved.' That amendment would permit reimbursement to employees for expenses of their travel, the cost of transportation of their families, and shipment of their household effects upon transfer in cases where authority to incur those expenses inadvertently might be omitted from the original orders, or where no formal order was issued in advance. Normally orders covering such expenses are and should be issued in advance, but it must be recognized that circumstances occasionally make that impossible.

"There have been many instances under the present law where hardship has resulted because employees have been directed by their superiors to transfer from one permanent-duty station to another only to find that the expenses necessarily incurred by them in effecting the change of station could not be reimbursed because no authorization for incurring such expenses had been issued prior to the performance of the travel. The injustice suffered by employees in those cases frequently is aggravated by the fact that the failure to issue proper and complete orders results from emergency situations in which the employee has complied with the orders of his superiors at considerable personal inconvenience."

c. AB 22-100-1, 1, states: "Official travel orders must be issued for all staff personnel prior to actual travel, except as provided in

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(4)." (1) d applies only to personnel commencing travel outside the continental United States. (4) states: "In those cases where sufficient time did not exist to issue a travel order prior to the commencement of travel, the appropriate Assistant Director or Office head, or their designees, may approve the reimbursement voucher by signing the following statement to be inserted on the face of the voucher: 'Travel without prior written orders approved.' "

d. The net effect of the foregoing is that, despite the apparent Congressional intent to provide a remedy for a wide variety of "emergency situations" in which ~~prior~~ travel orders were not issued prior to ~~the~~ performance of travel, Agency regulations, so far as they pertain to domestic travel, provide only specifically

only for the situation where insufficient time existed for the issuance of a prior written travel order.

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e. Telephonic inquiry of [redacted] (Travel Voucher Certifying Officer, Finance Division, X 2574) developed the following information respecting Agency practice on ~~and~~ approval of ~~domestic~~ travel performed without prior written travel orders:

(25X1A) The approval statement authorized by [redacted] is used, but apparently only where temporary duty is involved.

(2) In cases involving permanent change of station, which are apparently infrequent, an antedated travel order is issued by the ^{proper} authorizing official (in the case of ~~transfer~~ ^{interagency transfers}, this would be the Assistant Director of Personnel.)

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(3) [redacted] does not recall any previous cases involving domestic interagency transfers where no prior written travel order had been issued.

7. It is the opinion of this office that there is no authority under existing ~~reg~~ agency regulations for the payment of this claim. It is pertinent to note, however